

## VESTING TENTATIVE MAP

<b>FILE NO.</b>	<b>T20-017</b>
<b>LOCATION OF PROPERTY</b>	<b>1197 Lick Avenue, West side of Lick Avenue Between West Floyd Street and Humboldt Street (APN: 434-13-040)</b>
<b>ZONING DISTRICT</b>	<b>RM(PD) Planned Development (File No. PDC18-025, Ordinance No. 30432)</b>
<b>PURPOSE OF MAP</b>	<b>Vesting Tentative Map to subdivide 2 parcels into 5 lots on a 6.96 gross-acre site.</b>
<b>TITLE OF MAP</b>	<b>Vesting Tentative Map - Tamien Station TOD</b>
<b>DRAWN BY</b>	<b>HMH Engineers</b>
<b>DATE OF MAP</b>	<b>July 22, 2020</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Determination of Consistency to the Mitigated Negative Declaration for the Tamien Station Transit-Oriented Development Project Development Project (Resolution No. 79567)</b>
<b>OWNER/ADDRESS</b>	<b>Santa Clara Valley Transportation Authority 3331 N. 1<sup>st</sup> Street, Building A San José, CA 95134</b>
<b>ENGINEER/ADDRESS</b>	<b>HMH Engineers 1570 Oakland Road San Jose, CA 95131</b>

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** This is a Vesting Tentative Map to subdivide 2 parcels into 5 lots on an approximately 6.96-gross acre site in the RM(PD) Planned Development Zoning District. The RM(PD) Planned Development Zoning, File No. PDC18-025 (Ordinance No. 30432), for the subject site was approved on June 9, 2020. The request for subdivision is to facilitate development for a mixed-use residential project with an associated Planned Development Permit (File No. PD20-003).
2. **Site Description and Surrounding Uses.** The subject site is relatively flat and contains two parcels. The approximately 6.96-gross acre project site is bounded by Lick Avenue to the east, Tamien Station Park to the north (under construction), a vacant lot and the Skyline apartments to the south and Tamien Station to the west. Along Lick Avenue there is a mix of mostly residential uses with some commercial uses.
3. **General Plan Conformance.** The subject site has a designation of Urban Residential on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This

designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages or in areas in close proximity to Urban Villages. Permitted density in this land use development is 30-95 dwelling units/acre (DU/AC). The project involves the subdivision of land for a mixed-use residential project to implement Planned Development Zoning PDC18-025. These actions were found to be in conformance with the Envision San José 2040 General Plan Land Use / Transportation Diagram designation for this site of Urban Residential.

4. **Tamien Station Area Specific Plan Conformance.** The project site is within the TSASP, which was adopted by City Council in 1995. The primary goal of the Tamien Station Area Specific Plan is to create a combination of land uses that will support and encourage transit use and reduce automobile use. The Specific Plan states that a key component of the plan is high density residential uses located close to the Tamien Light Rail Station and Caltrain Station. The plan also strives to create a pedestrian-friendly environment through the provision of a combination of a retail and service uses and well-designed pedestrian and street amenities. The project involves the subdivision of land for a mixed-use residential project to implement Planned Development Zoning PDC18-025. These actions were found to be in conformance with the TSASP.
5. **Vesting Tentative Map Permit Findings.** In accordance with San Jose Municipal Code (SJMC) section 19.12.130, the Director may approve the Vesting Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220. Findings for denial pursuant to San José SJMC Section 19.12.130 include the following:
  - a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
  - b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
  - c. That the site is not physically suitable for the type of development.
  - d. That the site is not physically suitable for the proposed density of development.
  - e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
  - f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
  - g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings for denial under SJMC section 19.12.220 include: design, flood hazard, inundation, lack of adequate access, lack of adequate water supply or fire protection, insufficient sewerage or drainage facilities, geological hazards, when the only practical use which can be made of the property thereon is a use prohibited by any ordinance, statute, law or other valid regulation, or because of failure to comply with the requirements of the Subdivision Map Act or of this Title 19.

*Analysis: Based on review of the project subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with General Plan goals and policies. The project complies with the General Plan goals and policies related to the development of affordable housing, transit, and land use. The General Plan land use designation of Urban Residential allows for higher-density residential projects. The project site is consistent with the Tamien Station Area Specific Plan, in that the primary goal of the Plan is to create a combination of land uses that will support and encourage transit use and reduce automobile use. The project site is physically suitable for the project and the project's density in that the development intensity is encouraged is proximity to Urban Villages and areas close to transit. Furthermore, the project site does not contain sensitive habitats or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project is required to improve the public sidewalks on Lick Avenue. The IS/MND identified potentially significant impacts to air quality, biological resources, cultural resources and noise. Mitigation measures were identified for each of these impacts to reduce the impacts to levels below the significance thresholds. The mitigation measures and associated compliance methods are included in the Mitigation Monitoring and Reporting Program. The IS/MND determined that the implementation of the project would not result in any significant effects to the environment.*

6. **Environmental Review.** A Determination of Consistency with the Tamien Station Transit-Oriented Development was made. The environmental impacts of this project were addressed in the Tamien Station Transit-Oriented Development, PDC18-025 Initial Study and Mitigated Negative Declaration circulated on March 9, 2020 and adopted on June 9, 2020. The Initial Study analyzed the proposed project and its environmental setting, identified potentially significant environmental impacts, and proposed mitigation measures to reduce significant impacts to less than significant levels, for the following issues: air quality, biological resources, hazards and hazardous materials, cultural resources and noise.

In accordance with the findings set forth above, a Vesting Tentative Map for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Vesting Tentative Map except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
  - a. Acceptance of the Permit by the permittee; and
  - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved T20-017 plans entitled, "Vesting Tentative Map T-20-017 Tamien Station TOD" dated received 11/24/2020 on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building

Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.

3. **Covenant of Easements.** Prior to recordation of the Final Map, the Subdivider shall offer to the City of San José a Covenant of Easement for private utility, public utility, emergency vehicle access, ingress and egress, and pedestrian access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall inure to, all successors in interest to the affected real property.
4. **Expiration of Map.** This Vesting Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning/Planning Commission/City Council, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Vesting Tentative Map. The date of issuance is the date this Vesting Tentative Map is approved by the Director of Planning/Planning Commission/City Council. However, the Director of Planning may approve a Vesting Tentative Map Extension to extend the validity of this Vesting Tentative Map in accordance with Title 19. An extension of the approval of the Vesting Tentative Map shall not exceed two years by the City Council or the Director of Planning. (see 19.16.030).
5. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
6. **Improvement Contract.** In the event the subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and shall provide the bonds and insurance mentioned therein.
7. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
8. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
9. **Conformance with Other Permits.** Approval of the Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
10. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat



such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

11. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
12. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devservices>
  - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
  - b. **Transportation:**
    - i. A Transportation Analysis (TA) has been performed for the subject project based on a net 141 a.m. and 172 p.m. peak hour trips. See separate Traffic Memo dated 4/9/20 for additional information. The following conditions shall be implemented:
      - 1) Provide “no parking zones” immediately adjacent to the Lick Avenue driveways to ensure adequate sight distance is provided at the driveways.
      - 2) Provide short-term parking along the proposed Kiss & Ride/ residential move-in zone located closest to the north parking garage for the Child Care Center drop-off/pick-up.
      - 3) Provide white curb/time restriction passenger loading/unloading areas to address potential parking deficit for the childcare center along the loop road. The location of the on-site passenger loading/unloading areas will be determined by City Staff during implementation
  - c. **Grading/Geology:**
    - i. A grading permit is required prior to the issuance of a Public Works Clearance.
    - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
    - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading

permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

- iv. Because this project involves a land disturbance of more than one acre, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- e. **Flood:** Zone D: The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- g. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter. The applicant shall comply existing agreements between the City and the VTA related to this project's parkland obligation. Any residential units that are not accounted for as part of that agreement shall meet the parkland obligation through the payment of park impact in-lieu fees. Full payment of park impact in-lieu fees is required prior to the issuance of a building permit.
- h. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Lick Avenue prior to issuance of a Public Works Clearance. Thirteen percent (13%) of the base fee in place at the time of payment will be due. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. The Director of Public Works may, at his discretion, allow

the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Lick Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

**i. Street Improvements:**

- i. Construct curb, gutter, and 10' wide attached sidewalk with 4' x 5' tree wells behind back of curb along Lick Avenue project frontage.
- ii. Construct two (2) 26' wide modified driveways at the Loop Road entrances as required by the Director of Public Works and two (2) 24' wide City Standard driveways along Lick Avenue project frontage.
- iii. Construct City standard wheelchair ramps along Lick Avenue project frontage and on the receiving end of the project frontage.
- iv. Construct raised crosswalks as part of the bulb-out improvements at the Lick Avenue/northerly Loop Road entrance driveway and the Lick Avenue/southerly Loop Road entrance driveway.
- v. Construct attached bulb-outs and provide 12' wide raised crosswalks at both the Lick Avenue/ Floyd Street intersection and the Lick Avenue/Humboldt Street intersection.
- vi. Project shall remove the existing midblock crosswalk at the south leg of Lick Avenue/northerly Loop Road entrance driveway.
- vii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- ix. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

**j. Electrical:**

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- iii. Provide clearance for electrical equipment from driveways and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
- iv. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.

- k. Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb.

Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

1. **Referrals:** This project should be referred to High Speed Rail. Please contact Walid Khalife, Contract Manager, of the California High Speed Rail Authority, at (916) 330-5671 or [walid.khalife@hsr.ca.gov](mailto:walid.khalife@hsr.ca.gov) or Gary Kennerly, Project Manager, of the California High-Speed Rail Program, at (510) 273-3673 or [gary.kennerley@hsr.ca.gov](mailto:gary.kennerley@hsr.ca.gov).
13. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD20-003 has expired and all appeals have been exhausted.
14. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
  - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
  - b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
  - c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
  - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.

**APPROVED** and issued on this **9<sup>th</sup> day of December, 2020**

Rosalyn Hughey, Director  
Planning, Building, and Code Enforcement

Deputy